



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

MICHAEL CONTRERAS,

Plaintiff,

v.

POTTER COUNTY SHERIFF,

Respondent.

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2:20-CV-99-Z-BR

**ORDER OVERRULING OBJECTIONS,
ADOPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION,
AND
DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS**

Before the Court are the findings, conclusions and recommendation of the United States Magistrate Judge to dismiss the Petition for a Writ of Habeas Corpus filed by petitioner in this case (ECF No. 3). On September 29, 2020, petitioner filed objections to the findings, conclusions, and recommendation (ECF No. 18). After making an independent review of the pleadings, files, and records in this case, and petitioner's objections, the Court concludes that the findings, conclusions and recommendation of the Magistrate Judge are correct. It is therefore ORDERED that petitioner's objections are OVERRULED, that the findings, conclusions, and recommendation of the Magistrate Judge are ADOPTED, and that the Petition for a Writ of Habeas Corpus is DISMISSED without prejudice.

Petitioner's objections do little more than rehash the same claims petitioner made to the Magistrate Judge regarding the alleged destruction of petitioner's mail by employees of the Potter County Detention Center. The Magistrate Judge already responded to these concerns. *See* ECF No. 10, Order to Respondent to Submit Preliminary Response. Petitioner failed to respond to the Magistrate Judge's April Order for five months and that is good cause to dismiss his petition.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and 28 U.S.C. § 2253(c), the Court denies a certificate of appealability because petitioner has failed to make “a substantial showing of the denial of a constitutional right.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also Hernandez v. Thaler*, 630 F.3d 420, 424 (5th Cir. 2011). The Court ADOPTS and incorporates by reference the Magistrate Judge’s findings, conclusions, and recommendation filed in this case in support of its finding that petitioner has failed to show (1) that reasonable jurists would find this Court’s “assessment of the constitutional claims debatable or wrong,” or (2) that reasonable jurists “would find it debatable whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this Court] was correct in its procedural ruling.” *Slack*, 529 U.S. at 484.

If petitioner files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* on appeal.

SO ORDERED.

October 14, 2020.



MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE